

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

The Use of N11 Codes and Other
Abbreviated Dialing Arrangements

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 92-105

COMMENTS OF THE AMERICAN PUBLIC COMMUNICATIONS COUNCIL

The American Public Communications Council ("APCC") respectfully submits the following comments in response to *In the Matter of the Use of N11 Codes and Other Abbreviated Dialing Arrangements*, Notice of Proposed Rulemaking, 2004 FCC LEXIS 2535 (May 14, 2004) ("NPRM") seeking comment on using a three-digit number to strengthen state "One Call" notification systems in compliance with the Pipeline Safety Improvement Act of 2002 (the "Pipeline Safety Act").

DISCUSSION

The NPRM seeks comment on whether an "N11 code, a code using a leading star or number sign, or another three-digit number should be assigned to comply with the Pipeline Safety Act." *Id.* ¶ 1. It is critical that payphone service providers ("PSPs") not be required to assign a three-digit number for this purpose. Payphones are not used by excavators or the general public to contact One Call Centers. Accordingly, forcing PSPs to bear the significant expense of reprogramming payphones to recognize a three-digit

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number is a waste of PSPs' limited resources. If the Commission nevertheless decides to require PSPs to reprogram their payphones, the Commission should ensure that PSPs are fairly compensated.

I. Payphones Are Not Used To Call One Call Centers

One Call Centers "exist to permit anyone who will excavate using mechanized equipment to make one telephone call to give notice of their plans to dig in a specific area before they begin their project." *Id.* n. 2. After receiving a call from an excavator, the One Call Center notifies "owners and operators of underground facilities in the area and allows them to mark their facilities to prevent costly and disruptive damage to underground infrastructure." *Id.*

While there may be a need to dedicate a three-digit number to strengthen the One Call notification system, the need has absolutely nothing to do with payphones. Excavators such as construction companies do not use payphones, at street corners or otherwise, to contact One Call Centers. Rather, such excavators contact One Call Centers from their offices, when planning projects. Moreover, even if an excavator contacted a One Call Center from the work site, he would almost certainly use mobile communications, not a payphone. Similarly, members of the general public excavating around their home or office will use their home or office phone, not a payphone, to contact One Call Centers. PSPs, therefore, should be excluded from any requirement to dedicate a three-digit number to the One Call notification system.

II. The Commission Should Not Require PSPs to Reserve 811 For Calling One Call Centers Because 811 Is Already In Heavy Use By PSPs

The North American Numbering Council (“NANC”) recommends that the three-digit number mandated by the Pipeline Safety Act be an N11 code, specifically 811. *Id.*

¶ 8. Many independent PSPs, however, are already using 811 in a manner that promotes the public interest. It is explicit Congressional policy to “promote the widespread deployment of public payphone services to the benefit of the general public.” 47 U.S.C. § 276(b)(1). Consistent with that goal, many independent PSPs are using 811 to allow the general public to make free repair calls from payphones.

If 811 is assigned as the NANC urges, many independent PSPs will be forced to change to a new repair code. It would be extremely costly for independent PSPs to effectuate such a change for hundreds of thousands of payphones. Not only would the payphones need to be reprogrammed – which for some payphones would require on-site work – but, in addition, signage informing payphone users of the new repair code would have to be printed and installed at payphones that had been using 811 as their repair code. It is illogical to force PSPs to incur these substantial costs when excavators will not even use payphones to contact One Call Centers.

III. If PSPs Are Required To Dedicate A Three Digit Code To Contact One Call Centers, PSPs Should Be Compensated For Such Calls

Section 276 of the Communications Act of 1934, as amended (the “1996 Act”), 47 U.S.C. § 276(b)(1)(A), requires that PSPs be “fairly compensated for *each and every*

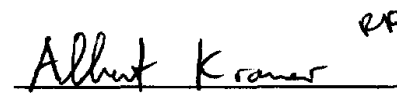
completed interstate and intrastate call using their payphone" (emphasis added). While the 1996 Act explicitly exempts emergency calls, it does not exempt calls from excavators to One Call Centers. Thus, if the Commission concludes that PSPs should reserve 811 or another three-digit code to contact One Call Centers, it must specify how PSPs will be compensated for such calls. One possibility is to allow PSPs to charge end-users for the calls; another possibility is to require long-distance companies to pay PSPs dial-around compensation for the calls. APCC does not have a preference regarding which of these compensation methodologies is used.

CONCLUSION

For the reasons stated above, the Commission should not require independent PSPs to assign a three-digit number to comply with the Pipeline Safety Act. If the Commission nevertheless does require PSPs to assign such a number, PSPs should be compensated for the calls.

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Respectfully submitted,



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